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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,323	02/27/2004	Patrycjusz Kosun	LAC201T3	8824

7590  
HORST KASPER  
13 FOREST DRIVE  
WARREN, NJ 07059

10/28/2008

EXAMINER
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LIANG, REGINA

ART UNIT	PAPER NUMBER
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2629

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10/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/790,323	KOSUN, PATRYCJUSZ	
	<b>Examiner</b>	<b>Art Unit</b>	
	Regina Liang	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-13,15-18 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7,11 and 23 is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,8-10,12,13,15-17 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Office Action is responsive to amendment filed 10/13/07. Claims 1-3, 5-13, 15-18, 23-26 are pending in the application.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Objections***

3. Claims 1, 7, 9, 11, 23 are objected to because of the following informalities: the word “possibility” is objected to since a more positive recitation should be used. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

4. Claims 1-3, 8-9, 12, 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Arita et al (5,504,502).

As to claims 1, 2, Fig. 1 of Arita discloses a computer input pointing device comprising a casing(13, 19), an upper movable steering element (10), a steering element’s movement detector (14, 14’, 18), the steering element (10) is connected to the casing by a connection (see Fig. 1), the center of the spherical surface (Fig. 3A) defined by the movement of the steering element in relation to the casing is situated above the steering element as claimed.

As to claim 3, Fig. 2 of Arita shows the connection of the steering element to the casing is a surface of spherical shape (13).

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As to claims 8 and 9, Fig. 1 of Arita teaches the steering element (10) rests freely on the casing (13), and the steering element has a possibility of relocation only over the spherical surface defined by the movement of the steering element in relation to the connection.

As to claims 12, 13, Fig. 3A of Arita shows the steering element is provided with a dome part (ergonomic shape) for user's hand.

### ***Claim Rejections - 35 USC § 103***

5. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arita et al in view of Leung (6,388,655B1).

Arita et al is discussed above. Leung is cited to show that the concept of utilizing ball bearing (236, Figs 19, 22) for facilitating movement of a moveable steering element(182) of an input pointing device(180) is old. Thus, it would have been obvious to one of ordinary skill in the art to modify the system of Arita et al with the noted teaching of Leung such that to provide ball bearings between the moveable steering element(10) and the bearing(13) because it would facilitate the movement between the two elements almost without any friction and secondly because both references are related to moveable cursor input device.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arita et al in view of Miyoshi (6,667,733).

Arita et al is discussed above. Miyoshi is cited to show that the concept of utilizing a moveable steering element (30, Fig. 4) having an upper part (31), a protective lower part (70) and a connecting part (32) for connecting the upper and the lower parts together is old. Thus, it

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would have been obvious to one of ordinary skill in the art to modify the system of Arita et al with the above noted teachings of Miyoshi such that the moveable steering element (slider 10) of Arita includes an upper and lower parts connected together so that to prevent the slider from falling through the hole (12a, 13a) because both references are related to mechanical structure of a slider input device.

Arita as modified by Miyoshi differ from the claim in that the lower side of the upper part not having a convex surface and the upper side of the protective lower part not having a concave surface. However, it would have been obvious to modify the steering element of Arita as modified by Miyoshi to be shape as claimed since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

7. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arita et al in view of Low et al (2004/0046741A1).

As to claims 15, 16, Arita et al is discussed above. Low et al is cited to show that the concept of utilizing a light emitter and an optical sensor or a micro-camera as a movement detector for a moveable peripheral input device is old (see paragraphs[0024-0025]). Therefore, it would have been obvious to one of ordinary skill in the art modify the system of Arita et al with the above noted teachings of Low et al such that to provide an optical detection system for detecting movement of the slider(10) as opposed to the magnetic detection system(14, 14', 18) because both are alternative equivalent to each other and further because both references are related to movement detection of a moveable peripheral input device.

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As to claim 17, Fig. 3 of Arita shows the steering element has a graphic perforations.

8. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobachi et al (US 6,326,948).

As to claim 24, Fig. 28 of Kobachi discloses a computer input pointing device comprising: a casing (4) having a central opening; a steering element (1) having an outer spherical cap and an inner spherical cap, and a centered disposed stub element solidly connecting the inner side of the outer spherical cap and the outer side of the inner spherical cap; a movement detector ( sensors S) for detecting movement of the steering element (1); and a transmission system connected to the movement detector for transferring movement information to a computer. Kobachi does not disclose the outside surface of the casing is formed concave, an inside surface of the outer spherical cap is formed convex, and an outside surface of the inner spherical cap is formed concave. However, it would have been obvious to modify the pointing device of Kobachi to be shape as claimed since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

As to claims 25 and 26, see Fig. 28 of Kobachi.

#### ***Allowable Subject Matter***

9. Claims 7, 11 and 23 are allowed.

10. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and

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any intervening claims. Claim 18 was unintentionally left out in previous office action, which should have been objected to.

***Response to Arguments***

11. Applicant's arguments with respect to claims 1-3, 5-13, 15-18, 23-26 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument regarding Arita on pages 10-11 that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the sphere defined by the movements of the present invention is concave disposed when viewed from above or from the outside of the device) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Even if applicant defines the sphere is concave as alleged by applicant above, which still does not make the claims allowable since a change in the shape of a component is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

Applicant's remarks regarding claims 5-6 on page 11 are not persuasive since Leung is cited to show that the concept of utilizing ball bearings for facilitating movement of a moveable steering of an input pointing device is old.

Applicant's remarks regarding claim 10 on page 12 are not persuasive, see the rejection above.

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Regarding claims 15-17, claim number 15 was inadvertently left out in the previous office action due to a typo error, however, the limitation of claim 15 was addressed in the previous office action in which “Low et al is cited to show that the concept of utilizing a light emitter and an optical sensor (**claim 16**) or a micro-camera (**claim 15**) as a movement detector for a moveable peripheral input device is old (see paragraphs [0024-0025])” (emphasis added). Applicant’s remarks regarding claims 15-17 on pages 12-13 are not persuasive since Low et al is cited to show that the concept of utilizing a light emitter and an optical sensor or a micro-camera as a movement detector for a moveable peripheral input device is old. Fig. 5 of Low teaches there is a light emitter (158), the light from the light emitter be reflected from a movement element (151) and be read by an optical sensor (160), therefore, Arita as modified by Low would have the light emitter and the optical sensor as claimed. Furthermore, Fig. 3 of Arita teaches the steering element has a graphic perforations as claimed in claim 17.

Newly added claims 24-26 are not allowable, see the rejection above.

### ***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37



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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina Liang whose telephone number is (571) 272-7693. The examiner can normally be reached on Monday-Friday from 8AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe, can be reached on (571) 272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Regina Liang/  
Primary Examiner, Art Unit 2629